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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/551,947	10/05/2005	Tooru Yamakita	05670/LH	3610
1933 7590 10/20/2009 FRISHAUF, HOLTZ, GOODMAN & CHICK, PC 220 Fifth Avenue 16TH Floor NEW YORK, NY 10001-7708				
EXAMINER				
MISLEH, JUSTIN P				
ART UNIT		PAPER NUMBER		
2622				
MAIL DATE		DELIVERY MODE		
10/20/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/551,947

Applicant(s)

YAMAKITA, TOORU

Examiner

JUSTIN P. MISLEH

Art Unit

2622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 September 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3 and 11 is/are pending in the application.
- 4a) Of the above claim(s) 5 and 12 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10 is/are allowed.
- 6) ☒ Claim(s) 1,3 and 11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed September 11, 2009 have been fully considered but they are not persuasive.
2. Applicant first argues, "Boles does not disclose or suggest both capturing image data of an article and also reading electronic tag information from an electronic tag which is attached to the article, in response to the shutter operation."
3. The Examiner respectfully disagrees with Applicant's position. The claim language does not require what Applicant asserts it requires. The first limitation of Claim 1, for example, recites, "an image capture device which captures image data of an article in response to a shutter operation." The third limitation of Claim 1 recites, "an electronic tag reader which reads ... when the image capture device captures the image data of the article in response to the shutter operation." The third limitation of Claim 1 does not require that the electronic tag read in response to the shutter operation. Rather, the third limitation of Claim 1 requires that the electronic tag reader read when the image capture device captures image data and that capturing of image data is in response to the shutter operation. Applicant has not traversed Boles disclosure of "an image capture device which captures image data of an article in response to a shutter operation." Therefore, even though Applicant amended the third limitation of Claim 1, the scope of Claim 1 has not changed.

4. Applicant subsequently argues that the portion of Lane et al. quoted by the Examiner “does not, in fact, disclose a ‘writing device which determines whether or not writing information is permitted ...”
5. The Examiner respectfully notes that Applicant's above-argument with respect Lane et al. is merely a conclusion drawn by Applicant. Applicant has not provided any reasons why Applicant believes Lane et al. do not disclose what the Examiner asserts Lane et al. disclose.
6. Finally, Applicant argues, “Hoshino et al does not disclose or suggest that an image capture device, a display device, an electronic tag reader, a determining device, and a tag writer are incorporated in a camera housing of a digital camera.”
7. Again, the Examiner respectfully notes that Applicant's above-argument with respect Hoshino et al. is merely a conclusion drawn by Applicant. Applicant has not provided any reasons why Applicant believes Hoshino et al. do not disclose what the Examiner asserts Hoshino et al. disclose.
8. For all of the foregoing reasons, the Examiner will maintain the rejection.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. **Claims 1, 3 and 11** are rejected under 35 U.S.C. 103(a) as being unpatentable over Boles (US 2005/0103840 A1) in view of Lane et al. (US 7,333,001 B2) in further view of Hoshino et al. (US 2003/0095032 A1).

Claim 11 is a method claim that tracks Claim 1, an apparatus claim. For the sake of brevity, Claim 11 will be rejected using the language of Claim 1.

11. For **Claims 1 and 11**, Boles discloses, as shown in figures 1 and 2 and as stated in paragraphs 34 – 37, 40, and 42, a digital camera (6, 1, 3, 2 and 11) comprising:

an image capture device (SEM 11) which captures an image of an article (stone 12 or valuable V) in response to a shutter operation (Boles discloses that the image capture device is a scanning electron microscope 11 that captures images; see paragraph 34. Any device that captures images inherently comprises captures those images in response to some shutter operation, including mechanical shutter means and/or electronic shutter means);

a display device (3) which displays the image of the article (stone 12 or valuable V) captured by the image capture device (see Boles, paragraph 34);

an electronic tag reader (6) which reads, using a wireless transmission (reader/writer 6 is connected to the tag 7 via inductive coupling; see Boles paragraph 35), electronic tag information from an electronic tag (7), which is attached to the article (see Boles paragraph 42), when the image capture device captures the image of the article in response to a shutter operation (see Boles paragraph 42); and

a writing device (6) which determines, when the image of the article is captured by the image capture device (11), which causes the electronic tag reader to read electronic tag information and writes the image of the article captured by the image capture device into the

electronic tag (See paragraphs 34 – 36. Boles states, “The resulting digitized images are output to an inductive writer 6 which is arranged to store the images in a memory 8 of a miniature RFID ... tag 7.”).

However, Boles does not disclose wherein the writing device which determines whether or not writing information is permitted based on the electronic tag information read by the electronic tag reader, and which writes information into the electronic tag when it is determined that the writing of the image is permitted.

On the other hand, Lane et al. also disclose an apparatus for reading/writing from/to an electronic tag attached to an article. More specifically, Lane et al. show, in figure 1, a system comprising a computer (40), a database (12), an RFID tag (4), and an RFID reader (10). Lane et al. show, in figure 2, details of the RFID tag (4). Finally, in figures 3, 7, and 8, Lane et al. show granting reading/writing permission to the RFID reader (10) to read/write from/to the RFID tag (4). In this regard, Lane et al. specifically disclose, “The controller 4A may then access the security circuit 4F to authenticate the identity of the reader 10 and to determine if the reader 10 is authorized to request information from, or write information into, or otherwise direct the operation of the RFID tag 2” (see Lane et al., column 15, lines 40-44). Lane et al. reader (10) in combination with the controller (4A) satisfy the claimed “a writing device which determines whether or not writing [information] is permitted based on the electronic tag information read by the electronic tag reader, and which writes [information] into the electronic tag when it is determined that the writing of the image is permitted.” In other words, Lane et al. provide the advantage that data regarding an article that the electronic tag is attached to is accurate.

Thus, the Examiner submits at the time the invention was made, it would have been obvious to one with ordinary skill in the art to have included a decision unit which determines whether a writing of *data* is permitted, and wherein the writing device writes the *data* into the electronic tag when the decision unit determines that a writing of the *data* is permitted, as taught by Lane et al., in the image pickup apparatus disclosed by Boles.

However, Boles in view of Lane et al. still do not disclose wherein the image capture device, the display device, the electronic tag reader, the determining device, and the tag writer are incorporated in a camera housing of the digital camera.

On the other hand, Hoshino et al. also disclose an apparatus for electronic tag management. More specifically, Hoshino et al. show, in figures 1 and 3, a digital camera incorporating all of its components, including an electronic tag system within a single compact housing. The main advantage of the digital camera and tag management system of Hoshino et al. is portability ("regardless of place"; see paragraph 0008).

Therefore, the Examiner submits at the time the invention was made, it would have been obvious to one with ordinary skill in the art to have incorporated the contents of the digital camera of Boles into a single digital camera housing, as taught by Hoshino et al..

12. As for **Claim 3**, Lane et al. further teach, as shown in figures 7 and 8, a communication interface (20), wherein the writing device (10) transmit the electronic tag information read by the electronic tag reader to a server (22) via the communications interface (20) and writes [information] into the electronic tag if a write permission is received from the server (also see column 21, line 50 – column 22, line 5).

Allowable Subject Matter

13. **Claim 10** is allowed.

Conclusion

14. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

15. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Justin P Misleh whose telephone number is 571.272.7313. The Examiner can normally be reached on Monday through Friday from 8:00 AM to 5:00 PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Jason Chan can be reached on 571.272.3022. The fax phone number for the organization where this application or proceeding is assigned is 571.273.8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications

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may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**/Justin P. Misleh/
Primary Examiner
Group Art Unit 2622
October 20, 2009**